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OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

10/1/87-LA/Part file

The Indian Forest (Goa Amendment) Ordinance, 1987 (Ordinance No. 1 of 1987) which has been promulgated by the Governor of Goa on 14-9-1987, is hereby published for the general information of the public.

By order and in the name of the Governor of Goa.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 18th September, 1987.

THE INDIAN FOREST (GOA AMENDMENT) ORDINANCE, 1987

(Ordinance No. 1 of 1987)

Promulgated by the Governor of Goa in the Thirty-eighth Year of the Republic of India.

An Ordinance further to amend the Indian Forest Act, 1927.

Whereas the Legislature of the State of Goa, is not in session and the Governor is satisfied that the circumstances exist which render it necessary for him to take immediate action;

And whereas the instructions of the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution.

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution, the Governor is pleased to promulgate the following Ordinance:—

1. *Short title and commencement*:—(1) This Ordinance may be called the Indian Forest (Goa Amendment) Ordinance, 1987.

(2) It shall come into force at once.

2. *Amendment of section 41*.—In the Indian Forest Act, 1927 (Central Act 16 of 1927) (herein-

after referred to as the "principal Act") in section 41,—

(i) in clause (h), after words "sawpits", the words "Saw mills and sawing contrivances" shall be inserted;

(ii) after clause (h), the following clause, shall be inserted, namely:—

"ha. — regulating by grant of licences within specified limits, the converting or cutting of timber in a saw mill and sawing contrivances and prescribe fees and conditions subject to which such licences may be granted".

3. *Amendment of section 42*.—In the Principal Act, in section 42, for the words "six months" and "five hundred rupees", the words "one year" and "one thousand rupees", shall be substituted, respectively.

4. *Amendment of section 51*.—In section 51 of the principal Act,—

(i) In sub-section (1), after clause (d), the following clause shall be inserted, namely:—

"(e) any other matter which is to be, or may be, prescribed or in respect of which provision is to be or may be, made by rules".

(ii) in sub-section (2), for the words "six months" and "five hundred rupees", the words "one year" and "one thousand rupees" shall be substituted, respectively.

5. *Amendment of section 52*.—In the principal Act, in section 52,—

(i) in sub-section (1), for the words "or cattle" the figures and words, "cattle, vehicles or any contrivances used" shall be substituted.

(ii) after sub-section (1), the following sub-section shall be inserted namely:

"(1A) Any Forest Officer or police officer may, if he has reason to believe that a vehicle or cart has been or is being used for the transport of forest produce in respect of which there is a reason to believe that a forest offence has been or is being committed, require the driver or other person in charge of such vehicle or

out of stock

cart to stop the vehicle or cart and cause it to remain stationery as long as may reasonably be necessary to examine the contents in the vehicle or cart and inspect all records relating to the forest produce carried, which are in the possession of such driver or other person in charge of the vehicle or cart or any other person in the vehicle or cart".

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every officer seizing any property under this section, shall place on such property or the receptacle of vehicle (if any) in which it is contained a mark indicating that the same has been so seized and make a report of such seizure.

(a) where the offence on account of which the seizure has been made, is in respect of timber, firewood, charcoal or any forest produce which is the property of Government, to the concerned authorised officer under section 61A; and

(b) in other cases, to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his superior officer.

6. *Amendment of section 53.*—In section 53 of the principal Act, for the words and figures "or cattle under section 52, may release", the words, figures and letters "vehicle, cattle, or any other contrivance under section 52, may, subject to the provision of section 61G release" shall be substituted.

7. *Amendment of section 56.*—In section 56 of the principal Act,—

(i) for the words "has been confiscated", the words "has been forfeited" shall be substituted;

(ii) for the words "in any other case, may be disposed", the words, figures and letters "in any other case may, subject to provisions of section 61G, be disposed" shall be substituted.

8. *Amendment of section 57.*—In section 57 of the principal Act,—

(i) after words and figures "that an offence has been committed", the words, figures and letters "subject to the provisions of section 61G", shall be inserted;

(ii) for the words "to be confiscated", the words and figures "to be forfeited to the Government together with tools, boats, vehicles, carts or cattle and other articles used in committing the offence" shall be substituted;

(iii) for the words "one month", the figures and words "45 days" shall be substituted.

9. *Amendment of section 58.*—For section 58 of the principal Act, the following section shall be substituted; namely:—

"58. *Procedure as to perishable property seized under section 52.*—The Forest officer who made the seizure under section 52 may notwithstanding anything contained in this Act or any other law, sell the property if it is subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it has not been sold and shall report every such sale to his superior officer".

10. *Amendment of section 59.*—In section 59 of the principal Act, for the words "one month", the words and figures "45 days" shall be substituted.

11. *Amendment of section 60.*—In section 60 of the principal Act, for the word "confiscation", the word "forfeiture" shall be substituted.

12. *Amendment of section 61.*—In section 61 of the principal Act, for the words and figures "under section 52", the words and figures "under section 52 which is not the property of the Government and the withdrawal of any charge made in respect of such property", shall be substituted.

13. *Insertion of new section 61A, 61B, 61C, 61D, 61E and 61G.*—After section 61 of the principal Act, the following sections shall be inserted, namely:—

"61A. *Confiscation by Forest Officer in certain cases.*—(1) Notwithstanding anything contained in the foregoing provisions of this chapter or any other law for the time being in force, where a forest offence is believed to have been committed in respect of forest produce which is the property of the Government, the officer seizing the property under sub-section (1) of section 52 shall, without any unreasonable delay, produce it, together with all tools, ropes, chains, boats, vehicles, carts and cattle used in committing such offence before an officer authorised by the Government in this behalf, by notification in the Official Gazette, not being below the rank of an Assistant Conservator of Forest (hereinafter referred to as the "authorised officer").

(2) Where an authorised officer seizes under sub-section (1) of section 52, any forest produce which is the property of the Government or any such property is produced before the authorised officer under sub-section (1) and once he is satisfied that an forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles, carts, cattle, and other contrivances used in the commission of such offence.

(3) Where the authorised officer, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may, order the confiscated property or any part thereof to be sold by public auction.

(4) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of such auction or other incidental

expenses relating thereto, shall where the order of confiscation made under section 61A is set aside or annulled by an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

61B. Issue of showcause notice before confiscation under section 61A. — (1) No order confiscating any forest produce or tools, ropes, chains, boats, vehicles, carts, cattle or any contrivances shall be made under section 61A except after notice in writing to the person from whom it was seized and considering his objections, if any: Provided that no order confiscating a motor vehicle shall be made except, after giving a notice in writing to the registered owner thereof, if in the opinion of the authorised officer it is practicable to do so and considering his objections if any.

(2) Without prejudice to the provisions of sub-section (1), no order shall be made under section 61A, if the owner of the tools, ropes, chain, boat, vehicle, cart, cattle or any other contrivance, proves to the satisfaction of the authorised officer that it was used in carrying forest produce without the knowledge of connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat, vehicle, cart and cattle or any other contrivance and that each of them has taken all reasonable and necessary precautions against such use.

61C. Revision. — Any Forest Officer not below the rank of Deputy Conservator of Forest specially empowered by the Government in this behalf, by notification in the Official Gazette, may, before the expiry of ninety days from the date of the order of the authorised officer under section 61A, give notice and call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and may pass such order as he deems fit:

Provided that no such order prejudicial to a person shall be passed under this section without giving him, an opportunity of being heard.

61D. Appeal. — (1) Any person aggrieved by any order passed under section 41, 61A or section 61C, may within forty five days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity of being heard to the appellant and the authorised officer or the officer specially empowered under section 61C, as the case may be, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2) An order of the Sessions Judge under sub-section (1) shall be final and shall not be questioned in any Court of law.

61E. Order of confiscation or seizure not to interfere with other punishment. — The order of any confiscation or seizure under section 41, 61A or section 61C or section 61D shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Ordinance.

61F. Property confiscated when to vest in Government. — When an order for confiscation or seizure of any property has been passed under section 41, 61A or 61C or 61D and such order has become final in respect of the whole or any portion of it or if it has been sold under sub-section (3) of section 61A, the sale proceeds thereof, as the case may be, shall vest in the Government free from all encumbrances.

61G. Bar of jurisdiction in certain cases. — Whenever any forest produce belonging to the Government together with any tool, rope, chair, boat, vehicle, cart, cattle or any other contrivance used in committing any offences is seized under sub-section (1) of section 52, the authorised officer under section 61A or the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have and, notwithstanding anything to the contrary contained in this Ordinance or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), or in any other law for the time being in force, any other officer, court, tribunal or authority shall not have jurisdiction to make order with regard to the custody, possession, delivery or distribution of such property".

14. Amendment of section 62. — For section 62 of the principal Act, the following section shall be substituted, namely:—

"62. Punishment for wrongful seizure. — (1) Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property liable to forfeiture under this Ordinance, shall on conviction be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) Any fine so imposed or any portion thereof shall, if the convicting Court so directs, be given as compensation to person aggrieved by such seizure".

15. Amendment of section 68. — In section 68 of the principal Act. —

(i) in sub-section (1), after the words and figures "The State Government may", the words and figures "subject to such conditions as may be specified," shall be inserted.

(ii) in clause (a), for the words and figures "any forest offence", the words and figures "any forest offence under this Ordinance", shall be substituted and after the words "a sum of money", the words and figures "not exceeding ten thousand rupees", shall be inserted.

(iii) in clause (b) after the words "liable to confiscation", the words, figures and letters "liable to confiscation subject to provision of section 61G" shall be inserted.